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UNCLAS SECTION 01 OF 03 USOSCE 000275

SENSITIVE  
SIPDIS

STATE FOR VCI/CCA, EUR/PRA, EUR/RPM, SCA/CEN  
JCS FOR COL NORWOOD  
OSD FOR ISA (PERENYI)  
NSC FOR HAYES

E.O. 12958: N/A  
TAGS: [PARM](#) [PREL](#) [OSCE](#)  
SUBJECT: OPEN SKIES: NOVEMBER 10 INFORMALS: UPHILL ON  
COSTS

REF: MARVIN-WRIGHT EMAIL 11/7/08

11. (SBU) Summary: The Open Skies Consultative Commission (OSCC) Plenary met in informal session on November 10 to discuss the draft letter from the OSCC Chairperson to the Ministerial Council. The Informal Working Group on Rules and Procedures (IWGRP) followed the informal Plenary and continued discussion on both the draft decision on alternate airfields and revision five of Decision Number One to the Treaty on Open Skies. The Slovak delegation announced yet another informal meeting on November 11 to discuss recently proposed edits by delegations on the draft decision on alternative airfields. U.S. concerns over language contained in Section V.2 of the draft decision on revision five of Decision Number One resulted in an alternate approach proposed by Russia, which appears in Revision 3 of the document. Washington guidance requested. Please see paragraphs 10 and 11. End Summary.

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Plenary  
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12. (SBU) During the November 10 OSCC informal plenary Belarus (Pavlov), in its capacity as OSCC Chair, announced two changes to the text of the draft letter to the MC. The first edit will add additional language to the second sentence of the first paragraph on page two of the draft letter to better characterize the aim of the draft decision on alternate airfields. The sentence will be: "At present time the IWGRP is continuing the discussion on the decision on alternative airfields which aims at ensuring flight safety as well as at establishing administrative and financial procedures in case of landings of observation aircraft at alternate airfields." The second edit will correct the dates of the active quota distribution meeting to October 9 and 10, mentioned in paragraph three of page two of the letter.

13. (SBU) Romania (Matei) gave its support to the draft letter and said it was a "good, well-balanced, comprehensive document." Romania proposed an addition to the end of paragraph four on the first page of the draft letter that would mention the certification of Romania's Open Skies platform, which occurred in September 2008 with the assistance of Germany and the POD group. The Chair (Pavlov)

said it had no objection to mentioning this "important event." No delegation objected. The Chair will issue a revised version of the draft letter, as Revision 1, to reflect the Chair's and Romania's proposed edits. Pavlov expects there will be agreement at the November 24 Plenary to send the draft letter to the MC.

¶4. (SBU) Pavlov announced that his assignment had come to an end and he would depart Vienna on November 13. Pavlov's replacement, First Secretary Dmitry Krayushkin, will continue as OSCC Chairman.

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IWGRP  
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¶5. (SBU) The Informal Working Group on Rules & Procedures (IWGRP), chaired by Russia (Kozlov), met following the informal Plenary. Igor Jancovic of the Slovak delegation, coordinator of the draft decision on alternate airfields (OSCC.RP/3/08), discussed recent changes to the text and announced that, in light of additional proposals received by delegations in the last few days, an informal meeting would be held on November 11. Canada (Linteau) expressed thanks to the Russian delegation for considering Canada's concern during the October 27 IWGRP wherein Canada asked the working group to reconsider the idea of a decision to designate alternate airfields. Canada appreciated that the current text seems to retain the authority of the pilot to designate an alternate airfield during an emergency.

¶6. (SBU) On revision five of Decision Number One to the

USOSCE 00000275 002 OF 003

Treaty on Open Skies (OSCC.RP/17/08,Rev.2), Slovakia (Jancovic) suggested deleting the last two paragraphs of Section V as the content of these paragraphs was already covered in paragraph 11. Russia (Kozlov) said it had considered the proposed amendment by Slovakia and agreed the first of the two last paragraphs of Section 5 (which begins, 'unless otherwise agreed...') could be dropped, but cautioned against "overloading" paragraph 11.

¶7. (SBU) The U.S. (Wright), per ref email, said it had concerns with the exclusion of 5 (D), which refers to "air traffic control instructions related to circumstances brought about by force majeure," from the last paragraph of Section V.2, which discusses costs attributed to factors in accordance with Article III, Section II, paragraphs 5 (A), (B), and (C). USDel noted that the observing Party should not be held liable for factors related to 5 (D). Wright suggested further discussion take place on the distinction between these paragraphs as related to costs. Russia commented that language in the last paragraph of Section V.2 had been proposed by USDel during the October 27 IWGRP and, therefore, if further clarification was sought we should ask Washington. (NOTE: During the October 27 working group USDel provided a drafting suggestion to the Russian proposed text in the last paragraph of Section V.2 to help clarify the language, which was confusing to the U.S. and other delegations.) Turkey supported the U.S. comment on 5 (D).

¶8. (SBU) After the working group concluded, Kozlov approached USDel and re-iterated that the USDel had not mentioned any concern over the exclusion of 5 (D) when USDel suggested edits to Section V.2 on October 27. Kozlov questioned why there should be concern over 5 (D) now since we had not raised it previously. USDel (Wright) said that the draft decision on revision five of Decision Number One was still under review in Washington; inputs received recently had raised the concern over the exclusion of 5 (D) to costs that would be incurred by the observing Party. Wright also commented that since Decision Number One was open for discussion in the IWGRP pending an outcome on the draft decision on alternate airfields, we believed it was worth seeking further clarification on language related to costs in Section V.2.

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Informal Meeting on Alternate Airfields  
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¶9. (SBU) During the informal meeting chaired by Slovakia on November 11, the Slovak delegation (Jancovic) gave an overview of the most recent changes to paragraphs 3, 6, 7, and 8 of the draft decision on alternate airfields, as suggested by the U.S., France, Slovakia, and Russia. USDel briefly explained its proposed edits that sought to help clarify the text. France, not represented during the informal, had passed on a suggestion to include text in paragraph 8(a) that would require the form of payment (either delayed payment, cash, or credit card) to be notified prior to the start of the mission in the remark section of OSF26. Jancovic stated that, as discussed during the IWGRP, the last two paragraphs of Section V.2 had been deleted from Decision Number One. Initially there was discussion to retain the very last paragraph (which refers to Article III, Section II, paragraphs 5 (A), (B), or (C) of the Treaty) of Section V.2 and insert it where appropriate into the draft decision on alternate airfields. Later in the meeting, however, Russia (Kozlov) proposed deleting that paragraph from the draft decision on alternate airfields as well and proposed, instead, that new text (which it believed addressed the same concern) be added to Section V, paragraph 13 of Decision Number One.

¶10. (SBU) Russia (Kozlov) said that the rationale behind its proposal for new text in Section V.13 of Decision Number One was that conditions in accordance with Article III, Section II, paragraphs 5 (A), (B), and (C) might not only

USOSCE 00000275 003 OF 003

occur during the observation mission, but also could occur during flights to and from the points of entry/exit. Kozlov suggested that, for this reason, Russia was proposing new language to address costs incurred by these conditions; he felt that this new language fit more appropriately in Section V, paragraph 13 of Decision Number One. (COMMENT: This appears to be an attempt to provide another approach to address how conditions as set forth in 5 (A), (B), (C), and (D) of the Treaty may affect costs incurred by the observed and/or observing Party.)

¶11. (SBU) Revised versions of both the draft decision on alternate airfields (OSCC.RP/13/08/Rev.4) and the draft decision on revision five to Decision Number One (OSCC.RP/17/08 Rev.3) were distributed by the respective chairs on November 12. Washington guidance requested before the next IWGRP meeting.

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Next Meeting  
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¶12. (SBU) The IWGRP will meet again on November 24. The next plenary also will be on November 24.  
FINLEY